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4. Undue hardship can be demonstrated only if the estate subject to recovery is or would become the sole income-producing asset of the survivors, and pursuit of recovery is likely to result in one or more of those survivors becoming eligible for public assistance and/or Medicaid benefits.

There shall be a rebuttable presumption that no undue hardship exists if the hardship resulted from estate planning methods under which assets were divested in order to avoid estate recovery.

5. Upon receipt of written notice that the estate is subject to a recovery claim by the Division, the estate representative shall have 20 days from the date of receipt of the notice to file a request for a waiver or compromise of the Division's claim based upon undue hardship, together with evidence in support of the request. If that request is not received by the Division within the time limit specified, the Division will not grant a waiver or compromise based upon undue hardship. Upon receipt of a timely request, the Division will evaluate the request and the evidence submitted, and will notify the applicant in writing of its decision within 45 days from the date that the request was received. If the estate representative wishes to contest the Division's decision, a written request for a hearing must be submitted to the Division within 20 days from the date of receipt of that decision. This request will be forwarded by the Division to the Office of Administrative Law, which will notify the parties of the hearing date and venue, and will provide a description of the hearing process. Subsequent to the hearing, the formal decision of the Office of Administrative Law will include a description of the process leading to the final agency decision as well as the appeal rights available to both parties.

95-22-MA

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NEW JERSEY

A. The following charges are imposed on the categorically needy for services other than those provided under section 1905(a)(1) through (5) and (7) of the Act:

Service	Type of Charge Deduct. Coins. Copay.			Amount and	Basis for Determination

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Effective Date OCT. 1 1985
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